

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:01CR29-3
	§	
JERRY WAYNE ANDREWS	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 16, 2011 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Miriam Rea.

On September 28, 2001, Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to a sentence of 46 months imprisonment followed by a 3-year term of supervised release, for the offense of distribution of cocaine base (crack). Defendant began his term of supervision on July 15, 2008.

On June 9, 2011, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 392). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; and (3) Defendant shall participate

in a program of testing and treatment for drug abuse, as directed by the probation officer, until such time as Defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) On April 6, April 11, and May 25, 2011, Defendant submitted a urine specimen that tested positive for cocaine. Defendant admitted to said use. On March 28, 2011, Defendant submitted a urine specimen that tested positive for cocaine and marijuana. Defendant admitted to said use; and (2) On June 6, 2011, Defendant failed to submit a urine specimen as instructed for testing at Wilson N. Jones as part of the random drug testing program. On March 2, 2009, Defendant was instructed to call a notification line every day as part of the U.S. Probation Office's random drug testing program. Defendant has failed to call the notification line since June 1, 2011, and has ceased participating in the random drug testing program. On June 2, 2011, Defendant failed to attend his scheduled substance abuse counseling session with Pillar Counseling as instructed.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the June 16, 2011 hearing, the Court recommends that Defendant be committed to the

custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in Seagoville, Texas, if appropriate.

SIGNED this 7th day of July, 2011.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE